IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.8540 OF 2007

Shri Tulsidas Pitambar Shah
and others : Petitioners

versus

State of Maharashtra & ors. : Respondents.

Mr.Vipin R. Kasle for the petitioners.
Mr.P.I.Khemani, AGP, for the State/Respondents.

CORAM : J.N.PATEL &
SMT.NISHITA MHATRE, JJ.
DATED : NOVEMBER 26, 2007.

P.C.

1. Heard learned counsel for the parties. The petition can be disposed of at the stage of admission.

2. The petitioners are the owners of the land situated at village Morbe, Taluka Khalapur, District Raigad. It is the case of the

petitioners that by Notification dated 22.2.1990, the petitioners' land came to be acquired for the purpose of Morbe Dam Project. An award came to be passed under Section 11 of the Land Acquisition Act. Though the petitioners did not challenge the award by filing a Reference under Section 18 of the Land Acquisition Act, other persons affected by the award sought reference and the Reference Court awarded compensation to them. The petitioners therefore filed an application for enhancement of compensation under Section 28A of the Land Acquisition Act on 4.4.01. The said application has not been decided by the Respondents and, therefore, the petitioners are required to approach this court seeking an order and/or directions to call upon the respondents Nos. 2 and 3 to decide and dispose of the petitioners' application under Section 28A of the said Act within a stipulated period and award them compensation at the rate which was awarded in L.A.R No.113/93 and to compensate them accordingly.

3. Limited relief sought for by the petitioners is that their application under Section 28A of the Land Acquisition Act should be

decided by Respondent Nos. 2 and 3. We, therefore, direct Respondent Nos.2 and 3 to take decision in the matter of application filed by the petitioners under Section 28A of the Land Acquisition Act within a period of three months from the date of communication of this order. We expect the authorities to pass speaking orders in the matter rather than summarily disposing of the application after giving an opportunity to the petitioners of hearing.

4. Needless to say that while deciding the application of the petitioners under Sections 28A of the Land Acquisition Act by Respondent Nos. 2 and 3, they will take into consideration the decision of this Court as well as the Supreme Court on the point which settles law on the issue of enhancement of compensation under Section 28A of the Land Acquisition Act particularly the decision in the case of **Union of India and others vs. Mangatu Ram** reported in **AIR 1997 SC 2704** as well as the recent decision of the Supreme Court on the issue.

5. Petition stands disposed of accordingly. The petitioners to communicate this order to

Respondent Nos.2 and 3.

[SMT.NISHITA MHATRE,J] **[J.N.PATEL,J]**